

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHAWN ARLIN DONLEY,

Plaintiff,

v.

WELLPATH, et al.,

Defendants.

No. 1:23-cv-01740-KES-SAB (PC)

ORDER FOR PLAINTIFF TO SHOW CAUSE
WHY DEFENDANTS ALEJANDRA,
CHLOE, AND LIBBY SHOULD NOT BE
DISMISSED FOR FAILURE TO PROVIDE
SUFFICIENT INFORMATION TO
EFFECTUATE SERVICE

(ECF No. 38)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

This action proceeds on Plaintiff's Monell claims against Wellpath and County of Madera, and deliberate indifference claims against Chief Manuel Perez, Sheriff Tyson Pogue, Sergeant Khela, Sergeant Quick, Corporal Garza, Corporal Townsend, Sergeant Villanuava, Dr. Gustavian, Medina, Debbie, Eva, Michelle, Maria, Chloe, Alejandra, Victoria, Libby, and Jane Doe. (ECF No. 23.)

I.

DISCUSSION

On June 17, 2025, the Court issued an order directing the United States Marshal to initiate service of process in this action upon the above-named Defendants. (ECF No. 24.) On September

1 5, 2025, the United States Marshal filed a return of service unexecuted as to Defendants
2 Alejandra, Chloe, and Libby. (ECF No. 38.)

3 Federal Rule of Civil Procedure 4(m) provides as follows:

4 If a defendant is not served within 90 days after the complaint is filed, the court—on
5 motion or on its own after notice to the plaintiff—must dismiss the action without
6 prejudice against that defendant or order that service be made within a specified time. But
7 if the plaintiff shows good cause for the failure, the court must extend the time for service
8 for an appropriate period.

9 Fed. R. Civ. P. 4(m).

10 In cases involving a plaintiff proceeding in forma pauperis, the Marshal, upon order of
11 the court, shall serve the summons and the complaint. Fed. R. Civ. P. 4(c)(3). “[A]n incarcerated
12 pro se plaintiff proceeding in forma pauperis is entitled to rely on the U.S. Marshal for service of
13 the summons and complaint, and ... should not be penalized by having his or her action dismissed
14 for failure to effect service where the U.S. Marshal or the court clerk has failed to perform the
15 duties required of each of them....” Puett v. Blandford, 912 F.2d 270, 275 (9th Cir. 1990). “So
16 long as the prisoner has furnished the information necessary to identify the defendant, the
17 marshal's failure to effect service is ‘automatically good cause....’ ” Walker v. Sumner, 14 F.3d
18 1415, 1422 (9th Cir. 1994), abrogated on other grounds by Sandin v. Connor, 515 U.S. 472, 115
19 (1995). However, where a pro se plaintiff fails to provide the Marshal with accurate and sufficient
20 information to effect service of the summons and complaint, the Court's sua sponte dismissal of
21 the unserved defendant is appropriate. Walker, 14 F.3d at 1421–22.

22 Here, the U.S. Marshal attempted to serve Defendants Alejandra, Chloe, and Libby with
23 the information that Plaintiff provided. However, the Marshal was informed that Defendants
24 Alejandra, Chloe, and Libby are no longer employed by the Madera County Jail and no
25 forwarding addresses were provided for these Defendants. (ECF No. 38.) Plaintiff therefore has
26 not provided sufficient information to identify and locate Defendants Alejandra, Chloe, and Libby
27 for service of process. If Plaintiff is unable to provide the Marshal with the necessary information
28 to identify and locate these Defendants, Defendants Alejandra, Chloe, and Libby shall be
dismissed from this action, without prejudice. Pursuant to Rule 4(m), the Court will provide

1 Plaintiff with the opportunity to show cause why Defendants Alejandra, Chloe, and Libby should
2 not be dismissed from the action at this time.

3 **II.**

4 **ORDER**

5 Based on the foregoing, it is HEREBY ORDERED that:

- 6 1. Within **twenty-one (21)** days from the date of service of this order, Plaintiff shall
7 show cause why Defendants Alejandra, Chloe, and Libby should not be dismissed
8 from this action; and
9 2. The failure to respond to this order or the failure to show cause will result in the
10 dismissal of Defendants Alejandra, Chloe, and Libby from this action.

11 IT IS SO ORDERED.

12 Dated: **November 4, 2025**



13 STANLEY A. BOONE
14 United States Magistrate Judge
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